IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 11128 of 2004(Y)

PETITIONER:

XAVIER AMMINI, W/O. SADANANDAN,
AGED 66 YEARS, MANNULLIPADOM, ALAPPATT CROSS ROAD,
COCHIN-16.

BY ADV. SRI.S.RAJKUMAR

RESPONDENTS:
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1. THE SECRETARY, CORPORATION OF COCHIN,
COCHIN-11.

2. ACCOUNTS OFFICER, CORPORATION OF COCHIN.

BY ADV. SRI.N.M.MOHAMMED AYUB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/01/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.11128/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: THE TRUE COPY OF THE DEATH CERTIFICATE.

EXT.P2: THE TRUE COPY OF THE LEGAL HEIRSHIP CERTIFICATE DATED 4.9.2001.

EXT.P3: THE TRUE COPY OF THE PENSION PAYMENT BOOK.

EXT.P4: THE TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 18.12.2003.

//TRUE COPY//

P.A. TO JUDGE

P.R.RAMAN, J.

W.P.(C) NO. 11128 OF 2004

Dated this the 23rd day of January, 2007

J U D G M E N T

The petitioner is alleged to be the legal heir of one Sadanandan, an employee of Cochin Corporation who died in the year 12/10/2000. She claimed the retiral benefits of Sadanandan to be paid to her. Proceedings for payment of the retiral benefits were pending consideration. While so, O.P No.34441/01 was filed by one Sri.A.V.Johny and another before this court inter alia challenging the attachment of their salary by a Co-operative Bank. In that case, Corporation of Cochin and one Smt.Suseela were parties. It was the contention of the petitioners therein that Smt.Suseela was the wife of Sadanandan who is entitled for certain retiral benefits and therefore from out of the retiral benefits, amount due to the Bank could be paid. This court however did not enter finding as to whether Smt.Suseela was the legally wedded wife of Sadanandan, but directed the Corporation to consider this aspect of the matter while dealing with the claim for payment of retiral benefits. In view of the above judgment,

Corporation could not without resolving the dispute between the petitioner on the one hand and Smt.Suseela on the other hand and their rival claims for the retiral benefits, disburse the amount. While the matter was pending before the Corporation this writ petition is filed. Though Smt.Suseela was not made a party, an impleading petition was filed in 2006. However, no orders are passed thereon. At this belated stage of the proceedings and in the view I am taking, it is not necessary to implead the parties. Even if Smt.Suseela is impleaded, the dispute would be as to who is the legally wedded wife to claim the amount due and payable to Sadanandan. This being a civil dispute, possibly even the Corporation cannot take a decision unless there is any provision for nomination.

2. Accordingly, this writ petition is disposed of directing the petitioner to produce a succession certificate issued by a competent civil court before the Corporation of Cochin and the Corporation of Cochin shall without further delay in the matter disburse the claim for retiral benefits to whomsoever it is found legally entitled by the civil court's order.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp